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March 25, 1999

Federal Election Commission  
999 E Street N.W.  
Washington, D.C. 20463

Attn: Tom Anderson  
ID#C00321703  
Tribal Alliance for Sovereignty

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
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Dear Mr. Anderson:

Please accept this letter as the response of the Tribal Alliance for Sovereignty and the Five Civilized Political Action Committee to your letters of December 8, 1998, concerning MUR 4867, and the related proposed Conciliation Agreements.

**FACTUAL BACKGROUND**

The Tribal Alliance for Sovereignty (TAS) is an unincorporated intertribal group made up of the Chickasaw, Choctaw, Cherokee, Creek and Seminole Nations.\* The Alliance was formed in early 1996 as a result of the executive leaders' observations concerning the overall public image of Tribes in Oklahoma. During a meeting of the Chiefs and Governor of those Tribal Governments, it was decided to join together to boost and improve the image of Tribes in Oklahoma. The TAS has no charter, no constitution or by-laws, and it has no other type of organic document. It is an informal alliance among the Member Tribes.

At the time of its formation, debate over State versus Tribal motor fuel taxes was raging in the State Legislature, and coverage by the news media was extensive. Involvement by groups of private citizens in campaigns against Tribal Governments, decrying the sovereign attributes of the Tribes, was at an all-time high. Numerous anti-tribe brochures had been prepared by some of those groups and distributed to members of the State Legislature, to private citizens, and to the news media.

The TAS was funded by contributions from each of the Member Tribes. Those funds were to be used to improve the image of the Five Civilized Tribes insofar as the general public's perceptions were concerned, for improvement of the State/Tribal relations between

\* Member Tribes were: The Chickasaw Nation; The Cherokee Nation of Oklahoma; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; and The Seminole Nation of Oklahoma.

each of the Tribes individually and collectively, and to improve and build upon relations with the citizens of Oklahoma. The primary function of TAS was and is public education with regard to the issue of sovereignty. The individual Member Tribes provided the funds necessary to carry out the educational activities of TAS.

In August of 1996, the leaders of the Tribes associated with TAS determined that it would be beneficial to sponsor a political action committee.

Although the leaders of the Tribes associated with TAS were provided a legal opinion that they were not subject to the rules of the Federal Election Commission, they nevertheless voluntarily complied with the Federal Election Commission rules by filing a Statement of Organization under the name of Five Civilized Tribes Political Action Committee on August 13, 1996. The Statement of Organization set forth that the Five Tribes were connected or affiliated to the newly formed Political Action Committee. A segregated fund was established at First National Bank and Trust Company of Shawnee, Oklahoma, for the exclusive use of activities in connection with Federal elections.

Money received by TAS from each of its members was then transferred to the segregated account opened by Five Civilized Tribes Political Action Committee in an effort to voluntarily comply with the Federal Election Commission rules. These transfers were duly reported by Five Civilized Tribes Political Action Committee.

Although the Five Civilized Tribes Political Action Committee was intended to be a multi-candidate committee, it had not at the time of the contributions complained of in this action and still has not met the regulatory requirements of a multi-candidate committee.

Subsequent to the creation of the Five Civilized Tribes Political Action Committee, contributions were made as set forth in the Committee's reports and the Commission's factual and legal analysis.

#### LEGAL ANALYSIS

The Commission has taken the position that the Federal Election Commission has jurisdiction based upon dictum appearing in *Federal Power Commission v. Tuscarora Indian Nation*, 362 U.S. 99, 116 (1960). The Respondents have taken the position that the case of *E.E.O.C. v. Cherokee Nation*, 871 F.2d 937 (10th Cir. 1989), requires broad Federal Statutes to explicitly include Indian Tribes in their purview.

Since it has always been the intent of the principals involved with the Tribal Alliance for Sovereignty and the Five Civilized Tribes Political Action Committee to voluntarily comply with the Federal Election Campaign Act of 1971 and the regulations of the Federal Election Commission, the Respondents are willing to enter into a Conciliation Agreement with the Commission to satisfy the concerns of the Commission and to meet the goals of the Commission to correct or prevent violations of the Federal Election Campaign Act of 1971 in the future.

Sincerely,

JOHNSON & NIMMO

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